

Applicant: EBERLE *et al.*
Serial No: 10/072,898
Filing Date: February 12, 2002
Page: 1 of 5

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE PATENT APPLICATION OF:	Hannes EBERLE <i>et al.</i>	ATTORNEY DOCKET No:	067220-0313074
SERIAL No.:	10/072,898	CONFIRMATION No.:	3570
FILING DATE:	FEBRUARY 12, 2002	EXAMINER:	JOSEPH T. PHAN
		ART UNIT:	2614
FOR:	SYSTEM AND METHOD FOR THE CREATION AND AUTOMATIC DEPLOYMENT OF PERSONALIZED, DYNAMIC AND INTERACTIVE VOICE SERVICES WITH CUSTOMIZED MESSAGE DEPENDING ON RECIPIENT		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

In response to the Final Office Action mailed June 4, 2008 (hereinafter "Final Action"), Applicants request a review of the Final Rejection in the above-referenced application. This request is being filed concurrently with a Notice of Appeal.

The review is requested for the reasons set forth in the Remarks beginning on page 2 of this paper.

A total of 5 pages are provided.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and are hereby authorized to be charged to our Deposit Account No. 033975 (Ref. No. 067220-0313074).

Applicant: EBERLE *et al.*
Serial No: 10/072,898
Filing Date: February 12, 2002
Page: 2 of 5

REMARKS

Claims 27-38, 40-51, 54-65, and 67-78 are pending in this application. Claims 27-38, 40-49, 54-65, and 67-76 stand rejected [Final Action, pg. 2, ¶12], and claims 50-51 and 77-78 are indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims [Final Action, pg. 12, ¶'s 4-5]. Review is requested for the improper rejection of pending claims 27-38, 40-49, 54-65, and 67-76 under 35 U.S.C. § 102(e). In view of the following remarks, withdrawal of the rejection is earnestly sought.

REJECTION UNDER 35 U.S.C. § 102

Claims 27-38, 40-49, 54-65, and 67-76 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,226,360 to Goldberg *et al.* (hereinafter "Goldberg"). The rejection of claims 27-38, 40-49, 54-65, and 67-76 under 35 U.S.C. § 102(e) is legally improper for at least the reason that Goldberg neither explicitly nor impliedly discloses each of the features of *at least* independent claims 27 and 54.

For example, independent claims 27 recites, *inter alia*, the features of:

service subscription means for *enabling at least one subscriber to subscribe to at least one service that can output personalized information*, and for *enabling the at least one user to specify preferences for the content and presentation of service output information, as well as delivery parameters* for receiving service output information, the *delivery parameters including at least one device* to which service output information is to be delivered, *and delivery instructions* based on a detected recipient;

service processing means for processing the least one service *to generate service output information personalized for the at least one subscriber*;

[*Emphasis added*].

Applicant: EBERLE et al.
Serial No: 10/072,898
Filing Date: February 12, 2002
Page: 3 of 5

Independent claim 54 similarly recites, *inter alia*, the features of:

enabling at least one subscriber to subscribe to at least one service that can output personalized information, and to specify preferences for the content and presentation of service output information, as well as delivery parameters for receiving service output information, the ***delivery parameters including at least one device*** to which service output information is to be delivered, ***and delivery instructions*** based on a detected recipient;

processing the at least one service ***to generate service output information personalized for the at least one subscriber;***

[Emphasis added].

Goldberg discloses *neither* the foregoing features associated with subscription, *nor* processing at least one service to generate service output information personalized for the at least one subscriber.

A. GOLDBERG FAILS TO DISCLOSE THE CLAIMED SUBSCRIPTION FEATURES

Independent claims 27 and 54 each recite the features of enabling a subscriber to subscribe to at least one service that can output personalized information. The subscription process comprises enabling the subscriber to specify preferences for the content and presentation of service output information, as well as delivery parameters (including at least one device and delivery instructions).

Goldberg is silent with regard to any type of "subscription" process whatsoever. Additionally, *nowhere* does Goldberg appear to disclose *at least* the feature of enabling a subscriber to specify preferences for the *content* and *presentation* of *service output information*. Rather, Goldberg appears to be concerned with optimizing the delivery of pre-recorded messages to intended recipients [Goldberg, e.g., col. 4, lines 50-65]. Applicants can find no disclosure in Goldberg of enabling a subscriber to specify preferences for the *content* and *presentation* of these pre-recorded messages. Moreover, the passage of Goldberg [col. 5, lines 1-22] relied upon by the Examiner [Final Action, pg. 2, ¶12] as

Applicant: EBERLE *et al.*
Serial No: 10/072,898
Filing Date: February 12, 2002
Page: 4 of 5

allegedly disclosing this feature appears to disclose that the “externally obtained or validated data,” that can be entered into the decision model of Goldberg by a user, is data related to particular intended recipients, and *not* preferences for the content and presentation of the pre-recorded messages.

For at least the foregoing reasons, the rejection of independent claims 27 and 54 under 35 U.S.C. § 102(e) is improper and should be withdrawn.

B. GOLDBERG FAILS TO DISCLOSE PROCESSING A SERVICE TO GENERATE SERVICE OUTPUT INFORMATION PERSONALIZED FOR THE AT LEAST ONE SUBSCRIBER

As noted above, Goldberg appears to be concerned with optimizing the delivery of *pre-recorded messages* to intended recipients. Nowhere does Goldberg appear to disclose generating service output information that is *personalized* for a subscriber. The passages of Goldberg [col. 5, lines 18-45 and col. 6, lines 1-20] relied upon by the Examiner [Final Action, pg. 2, ¶12] as allegedly disclosing this feature do not disclose generating personalized service output information for a subscriber.

For at least this reason, the rejection of independent claims 27 and 54 under 35 U.S.C. § 102(e) is improper and should be withdrawn.

For at least each of the foregoing reasons, it is clear that Goldberg neither explicitly nor impliedly discloses each of the features of *at least* independent claims 27 and 54. The Examiner has failed to provide any evidence to the contrary. Accordingly, the rejection of independent claims 27 and 54 under 35 U.S.C. § 102(e) is legally improper and should be withdrawn. Dependent claims 50-51 and 77-78 are indicated as being allowable by the Examiner, and the remaining dependent claims 28-38, 40-49, 55-65, and 67-76 are allowable because they each ultimately depend from an allowable independent claim, as well as for the further features they recite.

Applicant: EBERLE *et al.*
Serial No: 10/072,898
Filing Date: February 12, 2002
Page: 5 of 5

CONCLUSION

In view of the foregoing remarks, withdrawal of the rejection of claims 27-38, 40-49, 54-65, and 67-76 under 35 U.S.C. § 102(e) is earnestly sought. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: September 4, 2008

Respectfully submitted,

By:



Bradford C. Blaise
Registration No. 47,429

Customer No. 00909

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Direct Dial: 703-770-7741
Main: 703-770-7900
Fax: 703-770-7901